Supreme Court, U. S.
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MICHAEL RODAK, JR., CLERK

No. 77-1519

IN THE SUPREME COURT OF THE UNITED STATES

October Term, 1977

LANSING BOARD OF EDUCATION, et al.,

Petitioners,

vs.

N. A. A. C. P., et al.,

Respondents.

REPLY TO BRIEF IN OPPOSITION TO PETITION FOR CERTIORARI

To the United States Court of Appeals for the Sixth Circuit

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1. Respondents' proposition that the decision below complies with the rule of *Dayton* v. *Brinkman,* 433 U.S. 406 (1977), is patently false. The Court of Appeals conceded that the required district court findings were not made, but dispensed with them. Respondents can refer to no findings in compliance with this Court's *Dayton* rule because none exists. The Court below simply rejected the *Dayton* rule as applicable to decisions in its circuit.

2. The illegal requirement of a particular racial balance in the Lansing schools is, concededly, implicit rather than explicit. The school superintendent in charge of effecting the plan, like everyone else, understood the trial court mandate to mean a 10-45% requirement. (10a) Judge Fox himself stated that the "plan . . . is a continuation of the Cluster approach" (2a), which was based on a 10-45% requirement. And the trial judge ordered "annual demographic and educational reviews . . . for making appropriate adjustments toward fulfilling the intent of this court's order." (4a) There can be no other use for such demographic information except maintenance of the racial balance requirement. And, it should be noted, that there is no denial that the plan in fact preserves and incorporates the 10-45% rule.

Respectfully submitted,

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